

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Federal-State Joint Board on)
Universal Service)

CC Docket No. 96-45

REPLY COMMENTS OF THE
VERMONT PUBLIC SERVICE BOARD

The Vermont Public Service Board ("Vermont Board") submits this reply to the comments of other parties on Petitions For Reconsideration of the Federal Communications Commission's ("Commission") May 8, 1997 Report and Order in CC Docket No. 96-45.¹ This reply addresses the reply comments of other parties on two issues: (i) the Commission's decision to support from the federal Universal Service Fund only 25 percent of the difference between the proxy cost for a study area and the national benchmark, and (ii) the need to clarify that federal universal service support will be assigned to the intrastate jurisdiction.

I. The Comments Confirm that the Commission's Decision to Support Only 25 Percent of the Difference between the Proxy Cost and the Benchmark Violates the Act

A. Commenters Have Produced Evidence Showing that 25 Percent is Insufficient to Meet the Requirements of Section 254

Many commenters have produced evidence supporting the Vermont Board's contention that the Commission's decision to support from the federal Universal Service

¹ Report and Order, CC Docket No. 96-45, FCC 97-157 (rel. May 8, 1997).

Fund only 25 percent of the difference between an area's proxy cost and the national benchmark violates Section 254 of the Telecommunications Act. The comments of state agencies from several rural high cost states show that those states would have to impose substantial rate increases to fund the remaining 75 percent of the difference. For example, if federal support is set at 25 percent of the proxy cost/benchmark difference, New Mexico would have to levy a 26 percent surcharge on state access lines to ensure reasonable comparability between its urban and rural areas,² thereby rendering telephone service unaffordable for many residents of that largely rural state.³ The New Mexico Commission noted the special impact on subscribership levels that would ensue in relatively poor states.

Wyoming also has insufficient intrastate revenue to address its high cost problem. In that state, the forward-looking cost in some areas exceeds \$100 per month per line, and the revenue available from all access lines is insufficient to maintain reasonable and affordable rates throughout the state.⁴ In Alaska, rate increases of between \$8 and \$10 per month per access line would be necessary.⁵ The Vermont board agrees with Alaska's comments that such increases are inconsistent with the universal service mandate of Section 254 and with Congressional intent.⁶ In the Virgin Islands, rates increases of 45 percent would be

² Comments of New Mexico Corporation Commission, p. 2.

³ *Id.*, p. 3.

⁴ Wyoming Public Service Commission Petition for Reconsideration, p. 3 and n. 3.

⁵ Comments of State of Alaska.

⁶ *Id.*

required.⁷ These high local rate increases, which are necessitated by the Commission's decision to support from the federal fund only 25 percent of the proxy cost/benchmark difference, not only violate the Act, but are contrary to the Commission's public assurances that its universal service program would not cause local rate increases.⁸

Other commenters have argued persuasively for reconsideration of the high cost support issue:

- * The decision unlawfully shifts the burden of ensuring reasonable and affordable rates to the states, violating the mandate that the federal fund be sufficient to achieve the purposes of Section 254.⁹
- * Since under Section 254(f) states have no obligation to develop their own state funds, in some areas 75 percent of the proxy cost/benchmark difference may not be supported at all.¹⁰
- * Even if every state developed its own mechanism for supporting high cost areas, the limitation on federal support will violate the Act's requirement that consumers in all regions of the country have reasonably comparable rates.¹¹

B. Defenses of the Order Are Not Supported

Commenters defending the Commission's action provided no credible support for it. For example, AT&T merely claimed that the action was "not unreasonable" in light of the Commission's commitment to "monitor" impacts on service penetration and to work with the

⁷ Comments of the Virgin Islands Telephone Corporation, pp. 3, 4 (noting adverse impact on subscribership levels).

⁸ Comments of Chairman Hundt, FCC Open Meeting, May 7, 1997.

⁹ Comments of BellSouth Corporation and BellSouth Telecommunications, p. 3.

¹⁰ *Id.*, p. 3.

¹¹ Comments of TCA, p. 3.

States and the Joint Board over the next fifteen months to refine solutions.¹² AT&T's defenses reflect merely optimism that the problem can be fixed, not legal grounds of support. AT&T's comments do not show that the Commission order will result in reasonably comparable rates in all regions of the nation. The Act does not permit the Commission to wait until substantial numbers of customers lose their telephone service because of its high cost before providing adequate federal support for high cost areas.

Two BOC's which serve high cost rural areas, U.S. West and BellSouth, strongly agreed that the decision should be changed. Urban-oriented Bell Atlantic, however, took a different tack, claiming that upward pressure on local rates could be avoided under the 25 percent rule if only the Commission would change separations rules to allocate some of that support to local rates.¹³

Even if existing levels of high cost support for local rates were to continue, the new system would still not necessarily meet the objectives of the Telecom Act. The Commission needs to make specific findings under the Telecom Act to justify its decision. It must find that the new mechanism will yield rates that are reasonably comparable between rural and urban areas. Even Bell Atlantic has not claimed that 25 percent federal support is sufficient in all parts of the country so as to permit rates that are reasonably comparable to urban areas.

¹² Opposition of AT&T to Petitions for Reconsideration, pp. 3-5.

¹³ Opposition of Bell Atlantic to Petitions for Reconsideration, p. 3. If this "hold harmless" position accurately reflects the Commission's proposed program, the Commission should clarify its order.

II. The Commission Should Clarify Its Intent that Federal Universal Service Support Will Be Assigned to the Intrastate Jurisdiction

Parties' comments confirm confusion over whether the Commission intends that carriers receiving universal service support use it to keep local rates affordable. It is very important that the Commission clarify this intent in a subsequent order.

For example, Bell Atlantic suggests that the Commission allocate a portion of the 25 percent support of costs for the purpose of supporting local rates.¹⁴ Bell Atlantic did not cite to the Commission's order to show authority for such "hold-harmless" support for local rates or non-rural carriers, and thus Bell Atlantic's comments do not explain whether it thinks the Commission's existing orders already create authority for such an allocation. Setting aside whether such a support level would be sufficient, if the Commission intends to create a "hold harmless" provision, it should at the very least make this intent clear in its decision.

The confusion shown by the parties, however, makes it clear that more is needed. The Commission should reaffirm its historic commitment to use high cost funding to reduce local rates. Under the current system, carriers receive universal service support through the access charge system, just as the Commission has proposed here. However, the effect is to reduce local rates. The separations rules direct carriers to allocate intrastate costs to the interstate jurisdiction, where their costs are higher than the national average loop cost. By transferring costs to the interstate jurisdiction in amounts equal to high cost support, carriers reduce their intrastate revenue requirements and thus local rates. Orders issued when this system was established made clear that the Commission and the Joint Board intended carriers to use the

¹⁴ Opposition of Bell Atlantic to Petition for Reconsideration, p. 3.

funds to keep local rates affordable.¹⁵

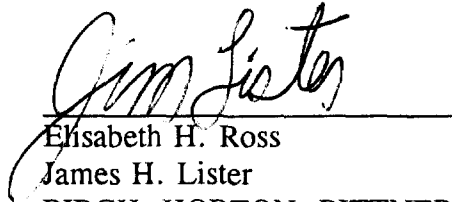
The Commission needs to clarify the separations treatment of its high cost area support. Moreover, it should renew its past commitment to using high cost support to reduce local rates. This will ensure that high cost funding is used as Congress intended.

III. Conclusion.

For the reasons stated, the Commission should reconsider limiting federal universal service support to 25 percent of the proxy cost/benchmark difference and should clarify that federal universal service support should be used to reduce local rates.

Respectfully submitted this 28th day of August, 1997.

VERMONT PUBLIC SERVICE BOARD



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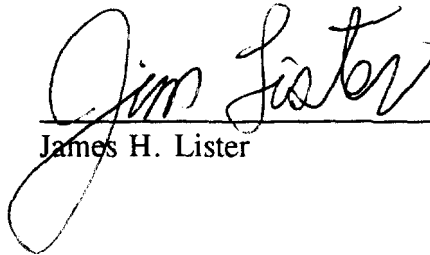
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¹⁵ See, e.g., Decision and Order, 96 FCC 2d 781, para. 33 (1984).

CERTIFICATE OF SERVICE

I hereby certify that I mailed a copy of the foregoing Reply Comments of the Vermont Public Service Board, postage prepaid, this 28th day of August, 1997, to those parties on the attached service list.


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